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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/295,718	04/21/1999	STEVEN M. BLUMENAU	EO295/7087/R	7529

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EXAMINER	
WILLETT, STEPHAN F	
ART UNIT	PAPER NUMBER
2141	

DATE MAILED: 12/26/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.	Applicant(s)
09/295,718	Blumenau et al.
Examiner	**Art Unit**
Stephan Willett	2141

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on *Nov 18, 2002* .

2a) ☒ This action is **FINAL.** 2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1-20, 34-50, and 62-77* is/are pending in the application.

4a) Of the above, claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) *1-20, 34-50, and 62-77* is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☐ All b) ☐ Some* c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____ .
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

a) ☐ The translation of the foreign language provisional application has been received.

15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
4) ☐ Interview Summary (PTO-413) Paper No(s). _____
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other:

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103© and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1-20, 34-50 and 62-77 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ma et al. with Patent Number 5,920,725 in view of Ha with Patent Number 6,175,919.

4. Regarding claim(s) 1, 11, 13, 34, 42, 44, 62, 69, 71, Ma teaches updating code and configuration information for distributed applications. Ma teaches storing first configuration information as to how to access a computer resource, col. 7, lines 6-13. Ma teaches determining a second access configuration, col. 7, lines 15-18. Ma teaches comparing the two configurations for differences as "some of the existing object instances now no longer match their modified object class definitions", col. 7, lines 19-20 and changes are reported. Ma teaches applying the

second configuration when it differs from the older configuration, col. 7, lines 47-50. Ma teaches differing manners of accessing a resource, col. 9-10, lines 66-4. Ma teaches the invention in the above claim(s) except for explicitly teaching a configuration manner to access a resource. In that Ma operates to generate service requests within a CORBA environment, the artisan would have looked to the interprogram communication arts for details of implementing access to resources. In that art, Ha, a related network updating system, teaches a "BIOS upgrade system", col. 4, lines 6 in order to provide efficient updates. Ha specifically teaches "basic input-output system (BIOS)", col. 1, lines 16-17. Clearly, the manner of accessing a resource is taught. Further, Ha suggests "it is possible to save time and to collectively upgrade the BIO's of a plurality of computers", col. 5, lines 27-28 which will result from implementing his upgrading system. The motivation to incorporate different methods to access a resource insures that a diverse distributed computer network system is supported. Thus, it would have been obvious to one of ordinary skill in the art to incorporate the BIOS accessing method as taught in Ha into the upgradable system described in the Ma patent because Ma operates with methods to access mobile objects in a distributed system and Ha suggests that optimization can be obtained with access methods. Therefore, by the above rational, the above claim(s) are rejected.

5. Regarding claims 2-3, 35-36, 63, Ha teaches rebooting as part of the reconfiguration process, col. 5, lines 23-24. Thus, the above claim limitations are obvious in view of the combination.

6. Regarding claims 4, 6-8, 10, 12, 17, 37-39, 41, 43, 47, 64-65, 68, 70, 74, Ma teaches storing component information to identify a resource and configuration information, col. 8, lines 20-21. Thus, the above claim limitations are obvious in view of the combination.

7. Regarding claims 5, 66, Ma teaches volumes of data associated with each resource, col. 8, lines 1-6 and in Ha at col. 4, lines 9-10 . Thus, the above claim limitations are obvious in view of the combination.

8. Regarding claims 9, 40, 67, Ma teaches path or links to information, col. 8, lines 6-8. Thus, the above claim limitations are obvious in view of the combination.

9. Regarding claims 14, 45, 72, Ma teaches updating without reinitializing, col. 8, lines 18-19 and col. 15, lines 14-15. Thus, the above claim limitations are obvious in view of the combination.

10. Regarding claims 15, Ma teaches suspending operations in form, col. 7, lines 26-34. Thus, the above claim limitations are obvious in view of the combination.

11. Regarding claims 16, 46, 73, Ma teaches a mapping entity to each resource, col. 10, lines 51-56. Thus, the above claim limitations are obvious in view of the combination.

12. Regarding claims 18, 48, 75, Ha teaches updating via ports, Fig. 4 Thus, the above claim limitations are obvious in view of the combination.

13. Regarding claims 19, 49, 76, Ma teaches using different connection to access database information, col. 8, lines 25-27. Thus, the above claim limitations are obvious in view of the combination.

14. Regarding claims 20, 50, 77, Ma teaches moving configuration data from one storage location to another, col. 11, lines 4-6. Thus, the above claim limitations are obvious in view of the combination.

Response to Amendment

15. The broad claim language used is interpreted on its face and based on this interpretation the claims have been rejected, however, excellent summary for perspective.

16. The limited structure claimed, without more functional language, reads on the references provided. Thus, Applicant's arguments can not be held as persuasive regarding patentability.

17. Applicant suggests "neither Ma nor Ha teaches comparing a second computer system configuration to determine whether the second configuration differs", Paper No. 7, Page 6, lines 23-24. However, Ma teaches "some of the existing object instances now no longer match their modified object class definitions", col. 7, lines 19-20 and changes are reported. The applicant argues "versions of code", but this above argument is not commensurate with what is presently claimed and therefore will not be considered at this time. In addition, "configuration" is a very broad term that reads on "object classes", "object instances" and "object definitions" that change. Lastly, lately there are a lot of citations to updating software, files, etc. in the references cited that at least inherently teach comparing or determining whether there are differences in code. Thus, Applicant's arguments can not be held as persuasive regarding patentability.

18. Applicant suggests updating "without re-initializing the host computer", Paper No. 7, Page 8, lines 22-23 is not taught, but admitted "updating ... in a manner that does not require initialization", Paper No. 7, Page 5, lines 21-22 is taught in Ma. Thus, Applicant's arguments can not be held as persuasive regarding patentability.

Conclusion

19. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure is disclosed in the Notice of References Cited. A close review of the Brodersen et al. reference with Patent Number 6,324,693 is suggested. The other references cited teach numerous other ways to perform version code comparisons, thus a close review of them is suggested.

20. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

21. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

22. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephan Willett whose telephone number is (703) 308-5230. The examiner can normally be reached Monday through Friday from 8:00 AM to 6:00 PM.

23. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wiley, can be reached on (703) 308-5221. The fax phone number for the organization where this application or proceeding is assigned is (703) 746-7239.

24. Any inquiry of a general nature or relating to the status of this application or proceeding

should be directed to the receptionist whose telephone number is (703) 305-9605.

sfw

December 11, 2002

LE HIEN LUU
PRIMARY EXAMINER